

ASSEMBLY BILL

No. 1360

Introduced by Assembly Member Hancock

February 22, 2005

An act to add Section 25355.1 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, as introduced, Hancock. Institutional control sites.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

The Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act.

This bill would define the term “institutional control site” as a hazardous substance release site that is proposed to be used for certain residential, school, or other specified uses and which, after cleanup or other removal or remediation, would pose risks to human health that would be unacceptable to the department for the proposed uses but for ongoing engineering or land use controls.

The bill would require the cleanup and approval of future land uses for a site that meets those conditions to be governed by the Presley-Carpenter-Tanner Hazardous Substances Account Act and would require the site to be regulated by the department. The bill would allow any agency or member of the public to request the department to determine whether a hazardous substance release site is an institutional control site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The appropriate cleanup and redevelopment of brownfields
4 and other contaminated properties is vital to the protection of
5 human health and safety and the environment and to the
6 revitalization of our urban communities.

7 (b) Brownfield sites vary in technical complexity and a
8 complex site may present risks to human health from different
9 exposure pathways, including air, and may require enforcement
10 of long-term institutional controls, including, operations,
11 maintenance, monitoring, and restrictions on use.

12 (c) These complex brownfield sites need to be administered by
13 personnel with the necessary expertise to evaluate these risks and
14 enforce these controls. If a site is to be converted to residential
15 use, potential health risks and the need for effective institutional
16 controls are even more important.

17 (d) Brownfield sites also vary in controversy in the
18 community. Complex brownfield sites are usually more
19 controversial and require more interaction with the community
20 prior to approval of remedial action activities.

21 (e) It is the intent of the Legislature to assure that these
22 complex sites are regulated in a manner that assures the
23 availability of appropriate agency expertise and necessary
24 processes for approval of cleanup and future land uses.

25 SEC. 2. Section 25355.1 is added to the Health and Safety
26 Code, to read:

1 25355.1. (a) “Institutional control site” means a hazardous
2 substance release site subject to this section that meets both of
3 the following criteria:

4 (1) The site is proposed to be used for any of the uses set forth
5 in paragraph (1) of subdivision (b) of Section 25232.

6 (2) (A) After cleanup or other removal or remediation, the site
7 would pose risks to human health that would be unacceptable to
8 the department for the proposed uses but for ongoing engineering
9 or land use controls.

10 (B) For purposes of this paragraph, a control solely to address
11 groundwater contamination that is not related to the health of
12 future occupants of the site is not a land use control.

13 (b) (1) Notwithstanding any other provision of law, if the
14 contamination at a site that meets the conditions specified in
15 paragraphs (1) and (2) of subdivision (a) is caused by a release of
16 a hazardous substance that is not otherwise excluded or exempted
17 from this chapter, the site is an institutional control site for
18 purposes of this section.

19 (2) The cleanup and approval of future land uses for an
20 institutional control site shall be exclusively governed by this
21 chapter and the department shall regulate the cleanup and future
22 uses of that site.

23 (c) This section does not require an institutional control site be
24 listed pursuant to Section 25356.

25 (d) Any agency or member of the public may request the
26 department to determine whether a hazardous substance release
27 site is an institutional control site.